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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/739,708	12/20/2000	Paul M. Bernman	91436-312	3270
22463	7590	07/24/2002		
SMART AND BIGGAR 438 UNIVERSITY AVENUE SUITE 1500 BOX 111 TORONTO, ON M5G2K8 CANADA			EXAMINER	
			KNOWLIN, THJUAN P	
ART UNIT		PAPER NUMBER		
		2642		

DATE MAILED: 07/24/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	09/739,708	BERNNAN ET AL.
	Examiner	Art Unit
	Thjuan P Knowlin	2642

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

1) Responsive to communication(s) filed on 20 December 2000.

2a) This action is FINAL.                    2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

4) Claim(s) 1-31 is/are pending in the application.

4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5) Claim(s) \_\_\_\_\_ is/are allowed.

6) Claim(s) 1-31 is/are rejected.

7) Claim(s) \_\_\_\_\_ is/are objected to.

8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on 20 December 2000 is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11) The proposed drawing correction filed on \_\_\_\_\_ is: a) approved b) disapproved by the Examiner.  
 If approved, corrected drawings are required in reply to this Office action.

12) The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
 a) The translation of the foreign language provisional application has been received.

15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

1) Notice of References Cited (PTO-892)

2) Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_

4) Interview Summary (PTO-413) Paper No(s) \_\_\_\_\_

5) Notice of Informal Patent Application (PTO-152)

6) Other: \_\_\_\_\_

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

1. Claims 1-31 are rejected under 35 U.S.C. 102(b) as being anticipated by Han et al (US 5,818,903).
2. In regards to claims 1, 6, 7, 9, 10, 11, 12, 16, 22, 23, 27, 30, and 31, Han discloses a method and computer readable medium for handling an unsuccessful synchronous call attempt from a calling party to a called party (col. 1-2 lines 47-39), said method comprising: monitoring a synchronous call attempt from said calling party to said called party; determining at least one communication address related to said called party; dropping said synchronous call attempt to said called party; allowing said calling party to compose a message; and sending said message to said determined communication address (col. 7 lines 6-15, col. 8 lines 24-37, col. 8 lines 55-57, and col. 9 lines 18-32).
3. In regards to claims 2, 3, 17, and 18, Han discloses the method and computer readable medium, further comprising determining that said synchronous call attempt to said called party is unsuccessful (col. 3 lines 30-36, col. 7 lines 6-15 and col. 9 lines 18-25).

4. In regards to claims 4, 19, and 28, Han discloses the method and computer readable medium, wherein said indication comprises said calling party pressing a predetermined key or keys on a communication device (col. 6 lines 4-13).
5. In regards to claims 5, 20, and 29, Han discloses the method and computer readable medium, wherein said indication comprises said calling party using a vocal command (col. 5 lines 3-23).
6. In regards to claims 8 and 21, Han discloses the method and computer readable medium, wherein said at least one communication address comprises at least one of a telephone number, pager number, e-mail address, voice messaging address, mobile phone number, and Internet instant messaging address (col. 6 lines 28-44).
7. In regards to claims 13, 14, 15, 24, 25, and 26, Han discloses the method and computer readable medium, wherein said allowing said calling party to compose a message comprises: where said at least one communication address related to the called party comprises a plurality of communication addresses, presenting said calling party with a list of messaging options based on said plurality of communication addresses; allowing the calling party to select a messaging option for use; and commencing a message compose session related to said selected messaging option and pre-filling a communication address for said message with a communication address related to said messaging option (col. 7 lines 15-30 and col. 9 lines 26-40).

*Conclusion*

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Hans et al (US 5,627,834) teach an automatic call simulator for simulating call processing capacity and performance between a base station and a mobile station.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thjuan P Knowlin whose telephone number is (703) 308-1727. The examiner can normally be reached on Mon-Fri 8:00-4:30pm.

10. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ahmad Matar can be reached on (703)305-4731. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9314 for regular communications and (703) 872-9314 for After Final communications.

11. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 306-0377.

Thjuan P. Knowlin  
July 16, 2002



AHMAD MATAR  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 2600